IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

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JUDGMENT

Abdul Karim.
vs.
Prem Prakash Jain.

S.B.CIVIL SECOND APPEAL NO.441/2007 UNDER SECTION 100 CPC AGAINST THE JUDGMENT AND DECREE DATED 20.12.2006 PASSED BY SHRI PANKAJ BHANDARI, ADDITIONAL DISTRICT JUDGE NO.3, JODHPUR IN CIVIL APPEAL DECREE NO.45/2006.

DATE OF JUDGMENT ::: 10.12.2007

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr.MA Siddiqui, for the appellant.

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BY THE COURT:

Heard learned counsel for the appellant.

The appellant/defendant is aggrieved against the judgment and decree dated 14.9.2006 passed by the trial court by which the eviction decree was passed against

the appellant/defendant. The appeal against the eviction decree was dismissed by the appellate court vide judgment and decree dated 20.12.2006.

Two courts below decreed the suit of the plaintiff/respondent on the ground of default as the appellant did not deposit the rent in time during the pendency of the suit.

Learned counsel for the appellant submitted that two courts below have not considered one of the receipt by which the appellant deposited rent of Rs.2,000/- on 31.7.2003 and thereby committed serious error in passing the impugned decree.

I considered the submissions of learned counsel for the appellant and perused the reasons given by the two courts below in the impugned judgments.

Assuming for the sake of arguments that the appellant might have deposited rent on 31.7.2003, then, according to learned counsel for the appellant, that rent was upto the period of July, 2003 only. The admitted position is that the appellant did not deposit the rent after 31.7.2003 and thereafter, he deposited rent in the month of December, 2003. The maximum period provided for depositing the monthly rent in pending

suit is fifteen (15) days and in view of the above reason, the finding of fact recorded by two courts below suffers from no error.

In view of the above, I do not find any substantial question of law involved in this appeal. Consequently, this second appeal deserves to be dismissed.

At this juncture, learned counsel for the appellant submitted that the appellant may be given some time so that he may make arrangements of shifting his business, therefore, he prayed that some reasonable time may be given to the appellant to vacate the suit premises.

I considered this prayer of learned counsel for the appellant and looking to the facts of the case, this Court is of the view that the appellant be granted time upto 30.6.2008 to vacate the suit premises.

Therefore, it is ordered that in case, the appellant furnishes a written undertaking before the trial court within a period of two months from today that he shall hand over the vacant possession to the landlord by or before 30.6.2008 and shall not part with the possession or sublet the suit premises during this

period and shall pay all the arrears of rent and decreetal amount, if due, and shall also pay the rent upto 30.6.2008 in advance within a period of two months from today before the trial court or directly to the landlord, the decree under challenge shall not be executed till 1.7.2008.

In case of non-compliance of the order or default in payment of amount mentioned above, the decree shall become executable forthwith.

Since this order of granting time has been passed ex-parte, the respondent shall have right to move application for vacating this order, if he feels aggrieved.

With the aforesaid concession, this appeal is dismissed.

(PRAKASH TATIA), J.

S.Phophaliya